

THIRD PARTY LIABILITY (TPL)

Purpose: This category applies to all clients receiving medical assistance benefits. The department re-captures between \$60 and \$80 million in tax funds every year through the TPL program (not including Medicare). Federal law requires that Medicaid be the payor of last resort for the cost of medical care.

WAC 388-505-0540 Assignment of rights and cooperation.

- (1) When a person becomes eligible for any of the department's medical programs, they make assignment of certain rights to the state of Washington. This assignment includes all rights to any type of coverage or payment for medical care which results from:
 - (a) A court order;
 - (b) An administrative agency order; or
 - (c) Any third-party benefits or payment obligations for medical care which are the result of **subrogation** or contract (see WAC 388-87-020).
- (2) **Subrogation** is a legal term which describes the method by which the state acquires the rights of a client for whom or to whom the state has paid benefits. The subrogation rights of the state are limited to the recovery of its own costs.
- (3) The person who signs the application makes the assignment of rights to the state. Assignment is made on their own behalf and on behalf of any eligible person for whom they can legally make such assignment.
- (4) A person must cooperate with the department in the identification, use or collection of third-party benefits. Failure to cooperate results in a termination of eligibility for the responsible person. Other obligations for cooperation are located in chapters 388-14 and 388-422 WAC. The following clients are exempt from termination of eligibility for medical coverage as a result of noncooperation:
 - (a) A pregnant woman, and
 - (b) Minor children, and

- (c) A person who has been determined to have "good cause" for noncooperation (see WAC 388-422-0020).
- (5) A person will not lose eligibility for medical assistance programs due solely to the noncooperation of any third party.
- (6) A person will be responsible for the costs of otherwise covered medical services if:
 - (a) The person received and kept the third-party payment for those services;
or
 - (b) The person refused to provide to the provider of care their legal signature on insurance forms.

CLARIFYING INFORMATION

In most instances, where another party (a third party) has been identified as responsible for payment of medical care costs, Medical Assistance is not to pay the health care claims until after the third party has paid. Where Medical Assistance has paid a claim for health care costs, Medical Assistance is entitled to all uncollected third party benefits. Because it is a **statutory** assignment of medical coverage, it cannot be withheld or modified.

Even a settlement a client has made with a third party which contains a variety of categories of relief (i.e., medical costs, pain-and-suffering, wage loss, etc.) is assigned to the department in total. Refer all such questions or challenges to the Coordination of Benefits Section, MAA (1-800-562-6136).

Assignment of rights is effective for all periods of eligibility certification, including any retroactive period of eligibility.

WORKER RESPONSIBILITIES**1. Possible Effects on Cash and Food Assistance**

- a. A client may receive a cash settlement related to health insurance, lawsuit or casualty settlement. Assignment of rights requires that the client surrender the lump sum to the department to be applied against medical expenses. This is best for the client since it does not impact their calculation of income/resources and it does not impact their ongoing eligibility. However, the client may fail to surrender the payment or the settlement amount may not be available when it is discovered by the FSS or the unit in Olympia that handles TPL. In such a case, benefit overpayments may have been made due to the client's "non-cooperation" with TPL (i.e., they actually used the assigned funds as income-uneared).
- b. Rather than terminating eligibility for non-cooperation, consider treating the unavailable settlement payment as a lump-sum payment type of unearned income (if the client's program rules allow it). Caution - do not treat such a case as both non-cooperation and a lump-sum payment. If the funds have been treated as income or they must be treated as income because they are no longer available for surrender to the department, that decides the matter. If the FSS receives a statement of non-cooperation from the Medical Assistance Administration and the funds have already been treated as income, advise Medical Assistance that the funds are no longer available for their consideration and that non-cooperation would constitute duplicate treatment.
- c. There is no set term of ineligibility for non-cooperation with TPL. If the client reapplies for assistance, the actual income and resources for the application period are considered without special regard to the prior non-cooperation.

2. Ongoing Insurance Premiums - Access to Insurance

- a. A client may have access to ongoing medical insurance which requires the payment of a premium by the client. The department may be willing to pick up those ongoing premium payments if it is cost effective to do so. Once the person is declared eligible for a Medical Assistance Program, the CSO should ensure that all of the necessary information is included on the 14-194 Form.

- b. If an applicant who has been diagnosed with AIDS is not eligible for department medical programs, there is another resource available. The department funds a contract to assist ineligible persons who have AIDS with ongoing medical insurance premiums. This program is not available for clients who are HIV positive; it applies to those who have developed AIDS. For more information about this program contact the Coordination of Benefits Section (COBS) at 1-800-562-6136.

ACES PROCEDURES

1. Use the ACES TPL screens for Medicare only. The ACES TPL screens will not successfully report health insurance or casualty insurance to Medical Assistance - COBS.
2. When non-cooperation notification has been received, the user will call the appropriate (DEM2) screen and enter [N] on the **TPL coop** field. Once the user calls DONE and exits with no warnings, the client will become ineligible for medical assistance because of non-cooperation with the TPL process.

FORMS PROCEDURES

1. **CHANGES:** If insurance coverage is added or changed, complete and submit a DSHS 14-194(x) to the COB Section or call 1-800-562-6136.
2. **NON-COOPERATION:** MAA will send notification to financial services when the recipient has not cooperated in identifying or using a medical resource that has been determined to be available to the recipient. Termination of medical coverage for non-cooperation is the last resort (notice should cite WAC 388-505-0540).
3. **FORMS:** The Coordination of Benefits (TPL) Section at MAA (MS 45565) uses the original of the DSHS 14-194(x) to identify and utilize medical resources available to the Clients. **Other than Medicare**, ACES is not programmed to transmit TPL information to MAA. For anything other than Medicare, use the 14-194(x).

The Division of Child Support uses its copy of this form to identify and utilize the medical resources of an absent parent (i.e., medical child support) which are available to a TANF and Medical Only Applicant / Recipient. Then the information is passed on the COBS (TPL) section for appropriate action.

COMPLETION OF DSHS 14-194(x)

1. Enter the CSO name, and telephone number, A/R name, and telephone number, case number, and the date the form was completed in the space provided.
2. Cooperation: TANF programs-complete this section. Check the appropriate boxes regarding submission of a DCS referral and Good Cause. Complete this section when good cause for non-cooperation with TPL has been established.
3. Have the A/R or person acting on their behalf complete sections A through H. (sometimes the client may be unclear - in that case entering the name and location of the family's latest doctors would be helpful).
4. Review the form for completeness and clarity.

FORM REFERRAL INFORMATION

1. Determine if any third party medical resource exists. Send the original copy of the DSHS 14-194(x) to the Coordination of Benefits (COBS - TPL) Section at MS 45565, Olympia.
2. For TANF and Medical Only send the pink copy to DCS along with the absent parent packet.
3. For other programs, destroy the pink copy.
4. File the yellow copy in the case record. The 14-194(x) is a permanent document and should remain in the case record at all times.
5. WRITE "**FOR INFORMATION ONLY**" ON THE TOP OF THE 14-194 AND SEND TO COBS/TPL ONLY WHEN THE ONLY MEDICAL RESOURCE IS:
 - a. Accident case with potential liability (auto and other)
 - b. Labor and Industries coverage of an injury
 - c. Crime Victim and victim assistance involvement
 - d. Products Liability potential coverage

6. **No referral to COBSobs / TPL** is necessary (the form still must be in the file) when the only medical resource is:
- a. Coordinated Children Services
 - b. Indian Health
 - c. Veterans coverage (other than active duty military coverage or Champus)
 - d. Life Insurance
 - e. Automobile Insurance (unless related to a current injury)
 - f. Homeowners or Rental Insurance (")
 - g. Medicare (use TPL procedures in ACES for Medicare only)
 - h. Enrollment in a HMO / HIO under a department Medicaid contract